

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

vs.

SABIL MUJAHID,

Appellant.

C.A. No. 11-30276

D.C. No. 3:10-cr-00091-HRH
Alaska (Anchorage)

**UNOPPOSED MOTION TO
WITHDRAW AS COUNSEL
OF RECORD AND REQUEST
FOR LEAVE TO APPOINT
CJA COUNSEL**

Sabil Mujahid asks this court for an order permitting the Federal Defender for the District of Alaska withdraw as counsel of record and for leave to appoint CJA Counsel. Withdrawal is appropriate because Mr. Mujahid contends in a 28 U.S.C. § 2255 petition that the Federal Defender for the District of Alaska violated his Sixth Amendment right to effective assistance of counsel in *United States v. Mujahid*, Case No. 3:09-cr-00034-TMB, and CJA counsel has been appointed in that matter.

The government does not oppose this request.

CJA counsel has been contacted and agreed to represent Mr. Mujahid on appeal in this matter.

Mr. Mujahid currently is in custody serving the 480-month sentence imposed by the district court in this matter.

This motion is filed pursuant to Circuit Rule 27-1, Circuit Rule 28-8, and is based upon the declaration of counsel filed herewith.

DATED this 27th day of October, 2011.

Respectfully submitted,

THE OFFICE OF FEDERAL DEFENDER
FOR THE DISTRICT OF ALASKA

/s/Kevin F. McCoy
Assistant Federal Defender
Attorney for Appellant
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**DECLARATION OF COUNSEL
(Filed Pursuant to 28 U.S.C.
§ 1746)**

I, Kevin F. McCoy, declare under penalty of perjury that the following is true:

1. I am the attorney in the above-styled matter for Sabil M. Mujahid.
2. The opening brief presently is due on December 29, 2011.
3. Mr. Mujahid currently is in custody serving the 480-month sentence imposed by the district court in this action.
4. The purpose of this motion is to ask that the Federal Defender for the District of Alaska be permitted to withdraw as counsel of record, and for leave to appoint CJA counsel to represent Mr. Mujahid on appeal.
5. Mr. Mujahid has filed a 28 U.S.C. § 2255 post-conviction petition in *United States v. Sabil M. Mujahid*, Case No. 3:09-cr-00034-TMB, contending that

the Federal Defender for the District of Alaska violated his Sixth Amendment right to effective assistance of counsel in that case.

6. CJA counsel has been appointed to represent Mr. Mujahid in connection with that pending § 2255 petition.

7. Mr. Mujahid's ineffective assistance of counsel claim presents this office with an irreconcilable conflict of interest that requires this request to withdraw in the above-styled matter.

8. CJA counsel has been contacted and, if this motion is granted, has agreed to represent Mr. Mujahid on appeal.

9. On October 27, 2011, I spoke with Assistant United States Attorney Daniel Cooper regarding this request. Mr. Cooper indicated that the government does not oppose this motion.

DATED this 27th day of October, 2011.

Respectfully submitted,

THE OFFICE OF FEDERAL DEFENDER
FOR THE DISTRICT OF ALASKA

/s/Kevin F. McCoy
Assistant Federal Defender
Attorney for Appellant
601 West Fifth Avenue, Suite 800
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CERTIFICATE OF SERVICE

I, Kevin F. McCoy, hereby certify that on October 27, 2011, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Audrey J. Renschen and Jo Ann Farrington, Assistant U.S. Attorneys, participants in this case, will be electronically served by the CM/ECF system.

DATED this 27th day of October, 2011.

Respectfully submitted,

THE OFFICE OF FEDERAL DEFENDER
FOR THE DISTRICT OF ALASKA

/s/Kevin F. McCoy
Assistant Federal Defender
Attorney for Appellant